

**CITY OF MORGAN HILL
JOINT REGULAR REDEVELOPMENT AGENCY
AND SPECIAL CITY COUNCIL MEETING
MINUTES – APRIL 28, 2004**

CALL TO ORDER

Chairman/Mayor Kennedy called the special meeting to order at 7:02 p.m.

ROLL CALL ATTENDANCE

Present: Agency/Council Members Carr, Chang, Sellers, Tate and Chairperson/Mayor Kennedy
Absent: Vice-chairman/Mayor Pro Tempore Sellers

DECLARATION OF POSTING OF AGENDA

Agency Secretary/City Clerk Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

PRESENTATION

Julie Osborne, South Valley Disposal and Recycling, recognized the Lacerda Family as the residential and Pacific Oak Properties (Vineyard Town Center) as the 2003 business "Recyclers of the Year."

CITY COUNCIL SUB-COMMITTEE REPORT

None.

OTHER REPORTS

City Treasurer Roorda presented the Finance & Audit Committee Quarterly Report. He stated that it is his observation, three quarters into Fiscal Year 2003-04; that the City has made some progress in terms of reducing costs. The City has also made progress on the revenue side although it is not as bright as everyone would like it to be going into the future. He said that the City had a slippage in sales tax revenue in the past couple of years. However, the City has seen some positive results above and beyond what the City had projected in terms of growth as it relates to property taxes. As the City has a more diverse revenue base for the general fund, this helps offset some of the decline in sales tax. He indicated that franchise fees come in later in the year. He said that it appears that the City will be coming in close to budget by the end of the year based on his discussions with the Finance Director. He felt that the hotel tax and other funding areas may come in slightly below by the end of the year. However, revenues tend to ramp up over the course of the year. Therefore, the City may see some improvements in these areas than what has been seen to date. He addressed the vehicle in lieu fee (VLF), indicating that there was a period of time where the City did not receive its normal fees (e.g., approximately \$400,000-\$600,000). He said that the State has indicated that this money will be refunded to the City in Fiscal

Year 2006-07. Although this revenue is not coming in this year, it will be revenue to be expected in the future. He indicated that the Finance & Audit Committee has projected that the City will have a slight deficit when you compare revenues and expenses budgeted this year. He said that a large component of this shortfall appears to be from the VLF. He stated that overall the City has had a rebalancing, even with the shortfall in revenue, to help the City achieve its overall objective. He said that the City may need to dip into the general fund reserves once it nets out revenues/expenses by approximately \$900,000. However, there is a potential of \$600,000 being recuperated in a couple of years. Therefore, the City's original budgeted deficit of \$300,000 may be where the City ends up. He indicated that staff may be coming up with budget information for next year that will include information on how the City will end up the year as staff looks at more detailed information.

Mayor Kennedy noted that City Treasurer Roorda mentioned that the VLF fees lost for a 3-4 month period would be refunded. He inquired whether the City would in fact be refunded these fees.

City Manager Tewes indicated that the legislature enacted a law, signed by the Governor, that took away the VLF but provided that these funds be returned to cities in Fiscal Year 2006. He stated that this revenue equates to approximately \$600,000 and is included in the City's long range forecast to Fiscal Year 2006. He said that everyone is awaiting the Governor's May revise to the State's budget and that it is clear, from news accounts, that the Governor and the finance officer are still seeking substantial shifts in revenues from local government to the State in the amount of \$1.3 billion for each of the next 2 years.

Mayor Kennedy said that he stopped by Home Depot's grand opening celebration, indicating that he missed the formal grand opening based on a return trip from Sacramento. He said that he and Council Member Carr were in Sacramento lobbying to protect the City's financial resources as well as education and other issues. He spoke to the Home Depot assistant manager who stated that the response exceeded their expectations and that this appears to be one of their best grand openings in this region. He encouraged residents/the public to shop in Morgan Hill as the City desperately needs these sales tax dollars in order to provide basic services.

Council Member Tate indicated that he attended the Home Depot grand opening where they presented a check in the amount of \$2,000 to the Morgan Hill Community Foundation. He stated that Home Depot believes in giving back to the community and that this is an example of their giving back to the community.

Council Member Tate and Mayor Kennedy stated that the Home Depot is a welcomed addition to Morgan Hill as they are good neighbors and community citizens.

PUBLIC COMMENT

Chairman/Mayor Kennedy opened the floor to public comments for items not appearing on this evening's agenda.

City Manager Tewes reported on the perchlorate testing. He indicated that the April results indicate that all City wells tested at none detect levels, using the State approved testing regiment which tests down to

4 parts per billion. He stated that staff understands that there are seasonalities and that the City is on its way to installing a perchlorate treatment plant at the Nordstrom well, one of the City's largest water producers. He indicated that it is staff's belief that this well will come on line in another week or two.

Mayor Kennedy indicated that he joined the Silicon Valley Manufacturing Group, along with 14 other elected officials and approximately 60 business leaders/CEOs, on a trip to Sacramento. He stated that everyone was encouraged with the meetings held with State legislators. He said that there is a growing optimism that the Governor is having some success in bringing the two parties together to achieve bipartisan agreements. He stated that there is a growing sense that there may be a possibility of adding revenue sources and not depend solely on cost cutting efforts. He said that the major issues focused upon were preserving funding for higher education and easing environmental (CEQA) requirements for transient oriented development. Doing so will make it easier to approve an infill transit oriented housing development such as the one being proposed by Rocke Garcia in the downtown area. He indicated that the Governor has suspended Proposition 42 transportation funding that would have funded Bart. He said that there is a measure/bill being circulated that would stop the diversion/shifting of funds from Bart and other transportation projects to the general fund. This bill will protect transit funds earmarked for Bart, Caltrain expansion, and other transit projects in Silicon Valley. Also, discussed were business investment credits and other measures that are important to businesses.

Council Member Carr said that there is a renewed bipartisan spirit in Sacramento regarding solving problems versus casting blame. He said that there is optimism about revenue sources coming in such as the State's amnesty program that resulted in \$1 billion that was not expected. Although there was discussion about not cutting community college funding and not raising community college fees further, a question that was frequently asked is "what else should be cut?" He said that it is clear that the State cannot continue to save/fund every program with decreased funding sources available. He said that the State will still have difficult decisions/choices to make. He felt that State legislators understand the challenges local legislators are facing, an understanding that he has not heard acknowledged in past trips to Sacramento. He said that some State decisions affect local government such as the suspension of Proposition 42 funding and a local government's ability to perform the much needed traffic measures. He felt that the trip to Sacramento was a positive one.

Mayor Kennedy felt that everyone came away from this trip with positive views compared to last year. He felt that there is a strong feeling/optimism that the State and local government will be able to work their way through this budget situation.

Council Member Chang reported that the Santa Clara County Water District met on Monday and that they are proposing a rate increase which equates to 25% of the City's pump tax. She indicated that she, City staff, and Mayor Kennedy attended the meeting and requested that the Water District make an adjustment to the rate increase. She stated that another meeting/hearing will be held on May 4, 2004, 9:30 a.m., at the Water District's office located on Almaden Expressway. She requested that citizens attend this meeting, especially if they are not happy with the proposed rate increase.

Mayor Kennedy said that he presented a report, prepared by City Manager Tewes, to the Water District's Board of Directors. He stated that the idea of spreading cost increases over a longer period of

time, and the idea that it may not be necessary to shift some of the costs from agricultural users to subsidize those used by municipal and industrial suppliers was acknowledged. If this is to be done, it was suggested that the City obtain some environmental concessions in return (e.g. agricultural/open space easements). It was recommended that the Water District look at cost cutting measures as has been done by cities throughout the region and state. He did not believe that there has been much effort, on the part of the Water District, to cut costs. Therefore, the City has asked that they take a harder look at their cost side of the issue before they increase rates. He felt that the City made an impact and that the Water District heard the City loud and clear. It is his hope that the Water District will modify what they are proposing to do.

No further comments were offered.

Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Agency Member Tate and seconded by Agency Member Carr, the Agency Board, on a 4-0 vote with Vice-chairman Sellers absent, **Approved** Consent Calendar Item 1, as follows:*

1. **MARCH 2004 FINANCE & INVESTMENT REPORT**
 ***Action:** **Accepted** and **Filed** Report.*

City Council Action

CONSENT CALENDAR:

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council, on a 4-0 vote with Mayor Pro Tempore Sellers absent, **Approved** Consent Calendar Item 2, as follows:*

2. **CITY MANAGER'S EMPLOYMENT**
 ***Action:** 1) **Approved** the Second Amendment to the Employment Agreement Between the City of Morgan Hill and J. Edward Tewes to Extend the Term of the Agreement; and 2) **Authorized** the Mayor to Execute the Amendment on Behalf of the City.*

Redevelopment Agency and City Council Action

OTHER BUSINESS:

3. BUSINESS ASSISTANCE GUIDELINES

Director of Business Assistance and Housing Services Toy presented the staff report, indicating that Agency/Council Member Chang requested that staff agendaize the issue of business assistance guidelines for consideration. He stated that the Business Assistance Guidelines were approved by the Agency in February 1999. At that time, the Board provided staff with parameters so that staff would have guidelines to assist in the evaluation of requests from businesses for financial assistance. He informed the Council/Agency that the Guidelines were incorporated into the economic development strategy approved by the Council in May 2003. He noted that there is a policy contained within the Economic Development Strategy that indicates that these Guidelines would be reviewed annually by the Agency/Council and that the action item was that the Council's Economic Development Committee would review the guidelines and make recommendations, as appropriate, to the Agency/Council. He inquired whether there were specific items contained within the guidelines that the Agency wanted to focus its discussions upon.

Agency/Council Member Chang indicated that at one of the Finance & Audit Committee meetings, the Committee reviewed the guidelines. At that time, she was confused about the guidelines and felt that it would be appropriate to discuss the guidelines to ask clarifying questions. She noted that it is stated that for every \$4 of agency assistance, a business should generate \$1 in revenue to the City's general fund over a specific period of time. She inquired whether the \$1 is to be generated annually or whether it is meant to indicate that the \$1 applies for a specific period of time. She noted that the guidelines state that this rate is not to exceed 10 years. It was her interpretation that this meant \$1 over a ten-year period of time. She requested clarification of this point.

Mr. Toy said that it was staff's perspective interpretation that it was the Agency's intent that it would be over a 10 year period and not a return per year averaged over 10 years. He clarified that the \$1 return over a year period would result in a 2.5% rate of return. He stated that the guidelines do not state that the term would always be set at 10 years, but that this would be the maximum.

Agency/Council Member Chang indicated that she originally thought that the Agency/Council was discussing a grant, receiving \$1 back annually. She stated that she does not see that a grant was included in the guidelines.

Mr. Toy said that at the time the Agency/Council considered the business assistance guidelines in 1999, discussions focused on grants or rebates. Agency/Council discussion indicated that it would prefer a loan program and not include discussions about a grant or rebate because if a business saw this, they would request a grant/rebate as opposed to a loan. He said that staff felt that a grant/loan could be considered on a case by case basis if an argument could be made that there was a need for this type of assistance.

Chairman/Mayor Kennedy indicated that the Economic Development Subcommittee discussed this point and that the Subcommittee generally agreed with staff's recommendation that the City should not utilize a grant program for the reason identified by Mr. Toy. He said that it was the Subcommittee's preference that this be a loan versus a grant.

Agency/Council Member Tate said that the Subcommittee received strong input from the Downtown Association that they would like to see the City concentrate on loans versus grants.

Agency/Council Member Chang noted that the City is looking at a 2.5% rate of return on the City's economic dollars with this policy, a low percentage.

Mr. Toy said that in some cases, the City would apply an interest rate.

Agency/Council Member Carr felt that it needs to be clarified that the loan is to be repaid in its entirety and the City would apply an interest rate to the loan. He said that the guideline is about the revenue that the business would be generating into the general fund based on sales and taxes in the community. He felt that there has to be a clear understanding that the City has to keep the rate of return of the loan to what the business generates into the general fund, a distinction that needs to be kept in mind.

Council Member Chang said that if the City considers applying an interest rate for its money, the City would be looking at a 2.5% rate of return. If the City does not get interest back, the City would be losing money because the normal interest rate may be 3%-4%. She noted that the City dropped from a 25% to a 2.5% rate of return on its money. She felt that this amount was quite a gap. She inquired whether there was possibility of establishing a higher ratio than a 2.5% rate of return on the City's dollars.

Chairman/Mayor Kennedy inquired whether it would make more sense to use a rate of return percentage rather than the 4-1 ratio. This amount could be set at 5% rather than using the 4-1 ratio.

Agency/Council Member Tate noted that Redevelopment funds are almost at the end of its cycle. He inquired whether the City should be seeking a better rate of return on what it chooses to invest as this would allow funds to keep turning over.

Agency/Council Member Chang felt that the Economic Development Subcommittee may have a different recommendation for Agency/Council members' consideration.

Agency/Council Member Carr said that the Economic Development Subcommittee reviewed the Business Assistance Guidelines' for the general fund/investments. He said that the City may want to model one after the other. He said that for this instance, the City could change the ratio such that for every \$2 of City assistance provided through loans; the business could generate \$1 in revenue for a maximum of 10 years.

Agency/Council Member Chang noted that this model would equate to at least a 5% rate of return.

Agency/Council Member Tate did not recommend that the Agency/Council artificially stipulate a 5% rate of return and that the Agency/Council study this as it may be that the Agency/Council could be able to receive a greater rate of return.

Action: *By consensus, the Agency/Council **referred** the rate of return on investment issue back to the Economic Development Subcommittee.*

Executive Director/City Manager Tewes indicated that the purpose of redevelopment funds is to assist economic development. He felt that it would be appropriate for the Council/Agency to review its underwriting criteria for how it uses redevelopment money. He indicated that the City uses idle cash from the general fund for investments. He said that the City needs to make sure that it is preserving the goals of its idle cash investment policies. He felt that it would be appropriate to have different standards for how the City uses its redevelopment funds and how it uses general funds. He noted that general funds have not been used to make economic development investments. He suggested that the Council make economic development investments from general funds when there is a project that will make a big difference in the community.

Agency/Council Member Chang noted that the Agency/Council wants to discourage requests for grants. Should the City approve a \$4 grant with a rate of return of \$1 annually, the City could get this money back four years. She felt that in some instances, the City may be able to receive a greater rate of return. She recommended that this be encouraged.

Chairman/Mayor Kennedy stated that he did not believe that the Council, as a whole, was in support of 4-1 rate of return. He requested that staff provide the Agency/Council with information relating to the Candescent business assistance to see how the City structured funding. He felt that this information may be helpful to the thought process.

Executive Director/City Manager Tewes said that as far as staff is aware, there has only been one instance where the guidelines were used for a factual business assistance package and that was with Specialized Bicycle. He informed the Agency/Council that the terms of this deal are consistent with what Mr. Toy has described as his understanding of the guidelines.

Chairman/Mayor Kennedy stated that the City's business assistance to Specialized Bicycles was a success and that this business decided to keep their corporate headquarters in Morgan Hill. He noted that this business assistance was a retention issue as Specialized Bicycles was looking at moving most of their operations elsewhere.

City Council Action

OTHER BUSINESS:

4. COUNCIL LIBRARY SUB-COMMITTEE STATUS REPORT ON LIBRARY SITE SELECTION

Recreation and Community Services Manager Spier presented a status report on the library site selection that is being performed through the work of the library subcommittee. She indicated that at the January 2004 Council meeting; the subcommittee reported that they were looking at four initial library sites: 1) the existing library site (expansion/renovation); 2) the current grant site located behind the civic center; 3) the Britton School site; and 4) the Sunsweet property site. She stated that the Council reviewed the four sites and requested that the subcommittee analyze them. She said that in discussions with the School District, it was determined that they were not ready to look at the potential of renovating, building or partnering on the Britton School site. As there was a June 2004 timeline to report back to the Council, the subcommittee decided that this was not a viable option. Also, the option to expand the current library facility was not proposed due to the financial restrictions and the possibility of its use for other City government purposes. She stated that the two remaining sites, the current grant site and the Sunsweet site, were looked at in more detail. She informed the Council that a preliminary financial analysis, included in the Council's packet, indicates that some of the numbers are still being refined. Also, the Council has a preliminary analysis from the City Manager from three weeks ago. Since that time, the City received new numbers regarding the site plan for the civic center site. She informed the Council that on April 12 the Library Commission was presented with the two proposals. She indicated that Noll & Tam presented the preliminary drawings for the civic center site and Rocke Garcia and his architect discussed the Sunsweet site. She said that there are distinct differences between the two sites. She noted that the civic center site is designed as one story building while the Sunsweet site is proposed as two story building. She stated that each site was given a preliminary number of 28,000 square feet with a secondary expansion number of 10,000 square feet. She indicated that 28,000 square feet would double the square footage of the existing library. It was felt that doubling the size of the building at this time would be adequate expansion. However, library staff believes that this would only take care of their expansion needs for approximately 5 years, and that there is a need to look at a future expansion. She informed the Council that the area serviced by the library would be from San Martin to south San Jose. Therefore, the area demographics is at approximately 55,000 individuals. She presented the design highlights/site layout for the civic center library proposal. She informed the Council that all 74 projects submitted for State funding moved to the rating section phase of the library grant process. She stated that this is good news as the City's grant proposal is still in the running.

City Manager Tewes informed the Council and the public that the purpose of the presentation this evening is to be responsive to the Council's request to be informed of the process. He said that it is not anticipated that the Council would make a decision this evening regarding either of the proposals. However, it would be appropriate for the Council to provide comments and ask questions.

Mayor/Chairman Kennedy opened the floor to public comment.

Rocke Garcia provided the Council with an analysis of the Sunsweet site library proposal. He said that the team he assembled is a dynamic team, one that is well versed and who have completed projects of this nature in a public/private partnership similar to what is being proposed. He indicated that he has been asked to provide a master plan for the entire block. He said that the master plan would require additional time. He stated that he has hired the firm of Barry and Volkman Architects and planners who have designed several projects in Danville. He indicated that he has held a couple of meetings with the Downtown Association in order to reach some of the goals contained in the Downtown Plan as well as

meeting the goals for the library. He stated that he wants to perform a coordinated effort and that he understands that he is at the beginning stages of the process. He informed the Council that Toenesketter & Breeding partnered with him on the last library proposal and will be working with him on this library proposal as they are knowledgeable of a public/private partnership. He said that there is a list of 9 items/stages associated with the library. He referred to the number 2 issue located on the last page of the handout relating to the size of the building. He said that Field Paoli Architects have been brought on board to help design the library facility.

Mr. Garcia said that he understands that he has to pay prevailing wages and that he does not believe that this will significantly impact the cost of the project. He said that there will be many primary contractors responsible for each portion of their work. He felt that this is the best method to keep costs down and responsibilities/performance up for each of the contractors. He has stated that he has met with the downtown organization that has provided a lot of input. He is bringing in a master planner in Larry Barry from Barry and Balkman. It is his hope to return with preliminary drawings to the downtown committee within the next two weeks. He stated that a meeting is to be held tomorrow with the County librarians to refine, in more detail, the program review that defines the probable square footage for each area of the library. The next step is to proceed with conceptual and schematic designs. He felt that the City needs a library and that the library is needed in the downtown. He stated that he is committed to commence construction on the library in January 2005 as it is important to give this community a library on time and on budget. He stated that each library proposal proposes approximately 90 on site parking spaces. His downtown site has an additional 91 off site public parking spaces adjacent to the site (e.g., Grange Hall and Depot parking lots). He said that the Field Paoli Architect firm is a large firm based out of San Francisco who has designed 15 libraries throughout the greater bay area. He stated that both Field Paoli and the Noll and Tam firms are experts in their field. He felt that downtown merchants and their clientele would be able to use the 90 on-site library parking spaces.

Mayor Kennedy noted that Mr. Garcia is proposing to build underground parking for a townhome project.

Mr. Garcia indicated that he is proposing to construct a market rate townhome project that will have a concrete underground garage and that the townhomes will be constructed above the garage. He stated that the garage will contain all the necessary parking for the townhome project and that residents will not be using the public parking areas. He clarified that he is proposing to perform a master plan for Third and Fourth Street (the Sunsweet property as well as the RDA property) and that part of the master plan is a potential expansion of the library.

Council Member Carr noted that it was indicated that a 28,000 square foot library is proposed and that the County library system estimates that this square footage would be sufficient for five years. He inquired whether there was a way to start estimating what the expansion costs will be so that it can be determined whether in five years it would be more cost effective to build a library at the civic center site or to construct the library in the downtown.

Ms. Spier indicated that staff has made sure that there is an additional 10,000 square feet of expansion area included. She said that staff can investigate which site would allow for a more cost effective library expansion.

Mr. Garcia said that the architects would need to answer the question about the cost to expand before schematic designs. He said that he left all options open so that the two story portion could be expanded. He did not believe that it was economically feasible to expand a single story into a two story facility. He clarified that the design concept before the Council is a library facility at 29,300 square feet and that it incorporates a children's computer area.

Council Member Carr felt that it would be important to know the difference in expansion costs as the Council starts making decisions. He said that it is one thing to compare the two libraries today. However, if the library is only being built for five years, the library facility may have reached its capacity at the end of that time. This may result in living at capacity for 20 years, similar to what has been done with the existing library. He felt that it would be important for the Council to know what the expansion cost would be. If it would be more expensive to expand behind the civic center on a 2-1 ratio versus the expansion elsewhere, these are important facts to know in the future planning of buildings. He noted that the process is to plan the library building now with the idea that they would need to be expanded a lot sooner than expected.

City Manager Tewes informed the City Council that both architects consulted with library staff members regarding their programming needs. He said that library staff had the benefit of knowing what they wanted in a 40,000 square foot facility. The subcommittee has already asked the library staff to try and figure out what might be smaller or eliminated if the size of the building is reduced to 28,000 square feet. He felt that both architects tried to be responsive to the programming requirements and that the requirements established by the library staff were provided in each of the two proposals.

Mayor Kennedy referred to the cost comparison matrix, land cost. He noted that for the downtown location there is a cost of \$2.2 million for the land. It was his understanding that the City was not buying the land, only leasing the land. He inquired if the \$2.2 million would be the cost should the City decide to purchase the land today.

City Manager Tewes said that it is not being suggested that the City would be acquiring the land, initially, for \$2.2 million but that it is the basis on which lease payments were calculated into the future. Under the landowner's proposal, at the end of the lease term, the public agency would have the option to acquire the building for \$1 and to acquire the land at its then market value at the end of the term.

Mr. Garcia said that one of the directives given was to design the best library possible with the least amount of money. He said that he started out with a land lease proposal so that the City would not have to come up with a capital expenditure for the downtown site.

City Manager Tewes said that staff did not provide the Council or the Library Commission with a series of cash flow analysis as the numbers are in flux. He said that the matrix provides all the data in one place that will be used later for a cash flow analysis.

Mayor Kennedy felt that it was important to look at the cash flow analysis. In looking at the matrix, it appears that the City has to make an outlay of \$2.2 million today for the land. He noted that it has been stated that the \$2.2 million is the basis for the lease payment and that it is not an actual out of pocket cost to the City today.

City Manager Tewes said that discussed was a 25-year land lease with options that would be based on an 8% return on the \$2.2 million. Staff developed a land lease schedule that started with a \$2.2 million initial value that achieved an 8% return for the first five years subject to a total of 6% on the CPI limitations every five years. He informed the Council that he has a series of spread sheets that address several different financing options that the Council may be interested in. He wanted to make it clear that these reflect the assumptions that have given to staff by the proposer and that they are not an item for the Council to discuss this evening. He stated that it is a Council goal to identify an option by the end of June 2004 and negotiate/develop the business terms. He indicated that the results of the cash flow analysis suggest that when you present value type analysis, the two proposals are not significantly far apart when you compare upfront financing versus a 25-year lease (studied was a financial structure.)

Mr. Garcia said that the directive he was given at the beginning was that the City did not have a lot of money. Studied was how to finance the library project. He stated that the more cash the City puts forth, the greater ownership the City will have. He said that there could be a lower or higher down payment. However, it was his directive from the beginning that the City did not have a lot of cash. Therefore, discussed was bond financing and other financing options.

Council Member Chang inquired whether the payment from the library portion would be enough to cover the lease payment.

City Manager Tewes indicated that the Council was provided with a copy of the report presented to the Library Commission that identified the funding gap and potential funding sources to close the gap, including “up-front cash” for a down payment. This includes some annual income stream in the future that would support borrowing. The report states that the direct financial comparison is made difficult by the complexity of the financing and by policy choices to be made about how much to pay upfront and how much to pay over time (lease or debt service payment). He indicated that the Agency has to make choices whether it wants to dip into its savings account in order to pay for the project up front or whether to come up with a down payment and hope that there would be assistance to pay the monthly payments.

Council Member Chang noted that there is a \$500,000 gap. If the City added to the down payment, this could be applied toward the lease payment. Instead of giving Mr. Garcia \$11 million, the City could give him \$10.4 million. She inquired whether this would be an option.

Mr. Garcia said that he tried to work out a guarantee as to the maximum cost of the building. The issue is that at this stage, you are reviewing estimates and performing value engineer. He said that he will work to address this at the design stage. He indicated that he dealt with the construction part first, as financing can be worked out. He noted that these numbers are projections on what bond financing

would cost or what the City's return would be on invested capital. He said that there are several financial scenarios.

No further comments were offered.

Mayor Kennedy inquired when the Council would need to make a decision. He noted that the numbers presented are preliminary and that until the City negotiates an agreement, it will not know what the real numbers will be. He did not know if it would be valuable to spend a lot of time talking about the numbers at this point in time.

Council Member Tate stated that the timeline put together was based upon some assumptions. The timeline put together stipulates an April 12 Library Commission meeting as the start of the public input process where designs are presented to the public, requesting feedback in terms of site preference. He indicated that the May issue of City Visions will include the two library layouts and a ballot that the public can return to express their site preference. He felt that Mr. Garcia has done a good job in presenting the fact that Noll & Tam was able to take a design that they have been working on for 3-4 years as a 40,000 square foot building and knew which parts could be eliminated. Mr. Noll was able to come up with detail schematic diagrams of what was desired by the County Library fairly quickly. On the other hand, Mr. Garcia was scrambling to get conceptual drawings submitted to the City by the April 12 meeting. These drawings were reviewed by the Library Commission and are now being presented to the Council. He said that the library subcommittee sat down with County Library staff members in order to get a sense of their programming needs. He said that tomorrow will be the first time they will have the opportunity to review a schematic design. He indicated that the Downtown Association saw the first diagram and compared it to the Downtown Plan, stating that they did not believe that the diagram fits the Downtown Plan. He felt that there is some concern that the Council is comparing a finely honed piece of work against a preliminary, first step design concept. The timeline calls for receiving public feedback, having additional meetings with the Library Commission; having them come up with their set of recommendations in their June meeting so that the library subcommittee can meet after that meeting to formulate a final recommendation by the end of June. He stated that the timeline was not based on having the complete financial scheme in place but to have a site preference followed by detailed analysis. Based on the concerns raised, he felt that the timeframe (June 23, 2004) may have been too aggressive.

Council Member Chang felt that the Library Authority should contribute to this project.

Council Member Carr stated his appreciation of the presentation. He said that it would be important to hear from the library subcommittee about the process that the City is going through. He understands that everyone will have an opportunity to review a final product. He inquired whether the library subcommittee expects to come back to the Council with a single choice and a defined funding proposal or will it return the options before the Council with the different criteria in order for the Council to make a choice and funding options, including all the questions that need to be considered.

Council Member Tate stated that he did not expect the Library Commission to return to the library subcommittee with a recommendation for one site. It was his belief that they would come back to the

library subcommittee with considerations for both sites. He said that the library subcommittee will return to the Council with a recommendation(s) and that it may be different from the Library Commission's recommendation.

Council Member Carr said that when he was elected to the City Council and attended his initial meetings on the Council, the Council asked a group to go through a lot of information and return with a recommendation. This group returned with a recommendation. However, the Council proceeded in a different path. He said that he was trying to avoid a similar situation in this case. He did not know if it would be best for the library subcommittee to identify which site is better or to return with a comparison of the two sites, identifying a criteria that should be used to judge the sites.

Council Member Tate said that he was giving the library subcommittee to June 17 to try to reach a consensus agreement on recommending one site. He did not know if there would be a difference of opinion on the site selection.

Mayor Kennedy said that it is a goal of the library subcommittee to return to the Council with one recommendation. He felt that Council Member Carr raised a good point in not returning with one recommendation, leaving options open. He said that a presentation can be made such that the Council, as a whole, makes this decision.

Council Member Carr inquired how the Council would consider benefits associated with both locations. He felt that a question that needs to be answered is which site would provide the best library services to the City of Morgan Hill and the surrounding communities. He felt that there were several other public policies that get addressed based upon where the library is placed. He was not sure how these can be used as criteria. He inquired whether the Council will be considering issues such as the benefits a library would have to the downtown; does it meet other downtown goals; or does it take away from the goals as it challenges some of the goals yet to be adopted in the Downtown Plan. He inquired whether there would be line item(s) that talk about other benefits outside of purely library benefits to be considered.

Council Member Tate stated that these questions will be part of the negotiation process that Mr. Garcia is going through with the Downtown Association.

Mayor Kennedy said that the library subcommittee weighed the pros and cons for both sites. He felt that it may be helpful to put together a criteria so that Council members are looking at the same score card. He felt that it was important for the library subcommittee to share with the entire Council why the other sites were excluded. For example, the Albertson site had the complexity of seven different owners and that this is too big of a hurdle to overcome. He said that the library subcommittee wanted to consider a site that could proceed fairly quickly. Therefore, the Albertson site was dropped off the list as it would take up to 10 years to work out an agreement.

Council Member Tate indicated that the School District wanted to have the Britton School site for future educational needs within the District. Therefore, they were not willing to give up this flexibility. He said that the library subcommittee looked at expanding the existing library site. It was determined that it

would be more expensive to expand the library. Another possibility was demolishing the current library building and starting from scratch but that it was determined that it would be more expensive than proceeding with the Proposition 14 site. A benefit of relocating the library programming would be the retention of the building for the use/expansion of city hall in the future. He said that a lot of people feel that a criteria should be proximity of the facility to the downtown. There are also a lot of individuals who feel that a primary criteria is non proximity to the downtown.

Mayor Kennedy indicated that the Edmundson site is no longer a viable site as the indoor recreation center is being designed for that site. He felt that the Council has voted to continue to proceed with the indoor recreation center on that site. He did not know if this was a site that should be brought up again as an option, indicating that he does not support this option.

Council Member Tate said that the only reason the Council opened the new library facility to other alternative sites after selecting the civic center site for the Proposition 14 was the fact that there were no downtown alternative sites considered. This gave the Council an opportunity to look at a downtown site. This is why the Council chose the Albertson, Britton Middle School and the Sunsweet properties because of their proximity to the downtown. He said that the library experts believe that the downtown is a desirable location in order to get more library users and to have the synergy of economic development and vitalization of the downtown.

Council Member Carr inquired whether the Council has other public policy objectives that can be met by the placement of the library that would be the tipping point for the site selection.

Mayor Kennedy noted that timing, cost, and proximity (e.g., schools, mass transit, ease of access, noise, railroad tracks, transit, quiet neighborhoods, etc.) are some general criteria. He felt that the library subcommittee can reconstruct a list of criteria based upon some of the pros and cons.

Council Member Carr recommended that the timeline identified be adhered to as the Council has identified a goal of having the library site selection finalized by June 2004. This is the date identified to the public and felt that the Council owes the public this goal. He noted that the City is already spending resources that could be spent on the library in some of the choices that already have been made in RDA funding. Delaying the decision further would result in continuing to spend a lot of resources that could be going toward this project.

Mayor Kennedy agreed that the project needs to remain on schedule and recommended that the library subcommittee bring forth its best recommendation in June 2004.

Council Member Chang stated that she likes the concept of a downtown site. However, she did not necessarily agree with all items. She felt that it was up to the City Manager, staff and the library subcommittee to make it all work out. She indicated that the PL 566 project may end up becoming a future project. She noted that there is \$7 million earmarked for flood control and suggested that \$1 million of these funds be used for the library to make it work. An alternative is to make a smaller down payment on the lease payment.

Mayor Kennedy indicated that he, Mayor Pro Tempore Sellers and members of the Downtown Association took a bus tour of other downtowns (e.g., Rockridge, Palo Alto, and San Mateo). It was found that successful downtowns were attributed to synergism. People resided in the downtown and activities brought individuals to the downtown. He felt that Morgan Hill's downtown needs this synergism. He was not stating that this is the primary reason to have the library in the downtown, but felt that it would be a positive use for the downtown. He indicated that he would take back the Council's recommendation to the library subcommittee and keep forging ahead.

Action: *The Council provided the above comments.*

Redevelopment Agency and City Council Action

CLOSED SESSIONS:

Agency Counsel/City Attorney Leichter announced the following closed session items.

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Authority: Government Code Sections 54956.9(b) & (c)

Number of Potential Cases: 2

2.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Legal Authority: Government Code Section 54956.9(a)

Case Name: Hacienda Valley Mobile Estates v. City of Morgan Hill

Case Numbers: Santa Clara Superior Court, Case No. CV 80-7708;
Ninth Circuit Court of Appeal, Case No. 02-15986

OPPORTUNITY FOR PUBLIC COMMENT

Chairman/Mayor Kennedy opened the Closed Session items to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Chairman/Mayor adjourned the meeting to Closed Session at 8:52 p.m.

RECONVENE

Chairman/Mayor reconvened the meeting at 9:57 p.m.

CLOSED SESSION ANNOUNCEMENT

Agency Counsel/City Attorney Leichter announced that no reportable action was taken in closed session.

FUTURE COUNCIL-INITIATED AGENDA ITEMS

No items were identified.

ADJOURNMENT

There being no further business, Chairman/Mayor Kennedy adjourned the meeting at 9:58 p.m.

MINUTES RECORDED AND PREPARED BY:

IRMA TORREZ, AGENCY SECRETARY/CITY CLERK